



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 510 and 512

[CMS-5519-F2]

RIN 0938-AS90

Medicare Program; Advancing Care Coordination Through Episode Payment Models (EPMs); Cardiac Rehabilitation Incentive Payment Model; and Changes to the Comprehensive Care for Joint Replacement Model; Delay of Effective Date

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled "Regulatory Freeze Pending Review", this action delays for 60 days from the date of the memorandum the effective date of the rule entitled "Advancing Care Coordination Through Episode Payment Models (EPMs); Cardiac Rehabilitation Incentive Payment Model; and Changes to the Comprehensive Care for Joint Replacement Model" published in the January 3, 2017 **Federal Register** (82 FR 180). That rule implements three new Medicare Parts A and B episode payment models and a Cardiac Rehabilitation (CR) Incentive Payment model, and implements changes to the existing Comprehensive Care for Joint Replacement model under section 1115A of the Social Security Act (the Act). Under the three new episode payment models, acute care hospitals in certain selected geographic areas will participate in retrospective episode payment models targeting care for Medicare fee-for-service beneficiaries receiving services during acute myocardial infarction,

coronary artery bypass graft, and surgical hip/femur fracture treatment episodes. All related care within 90 days of hospital discharge will be included in the episode of care. Under the CR Incentive Payment model, acute care hospitals in certain selected geographic areas will receive retrospective incentive payments for beneficiary utilization of cardiac rehabilitation/intensive cardiac rehabilitation services during the 90 days following discharge from a hospitalization treatment of an acute myocardial infarction or coronary artery bypass graft surgery. We believe these models will further our goals of improving the efficiency and quality of care for Medicare beneficiaries receiving care for these common clinical conditions and procedures.

DATES: Effective date: The effective date of the final rule published in the January 3, 2017 **Federal Register** (82 FR 180) for provisions that were to become effective on February 18, 2017, is delayed to a new effective date of March 21, 2017. The provisions contained in the following amendatory instructions remain effective July 1, 2017: number 3 amending 42 CFR 510.2; number 4 adding 42 CFR 510.110; number 6 amending 42 CFR 510.120; number 14 amending 42 CFR 510.405; number 15 amending 42 CFR 510.410; number 16 revising 42 CFR 510.500; number 17 revising 42 CFR 510.505; number 18 adding 42 CFR 510.506; and number 19 amending 42 CFR 510.515.

Applicability date: The regulations at 42 CFR part 512 are applicable on July 1, 2017.

FOR FURTHER INFORMATION CONTACT:

Nora Fleming, (410) 786-6908.

For questions related to the EPMs: *EPMRULE@cms.hhs.gov*. For questions related to the CJR model: *CJR@cms.hhs.gov*.

SUPPLEMENTARY INFORMATION:

To the extent that section 553 of the Administrative Procedure Act (APA) applies to this action to temporarily delay the rule's effective date, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A).

Furthermore, 5 U.S.C. 553(b)(B) permits a waiver of prior notice and comment if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest. Similarly, section 1871 of the Act, which normally requires prior notice and a 60-day public comment period for rules that establish or change a substantive legal standard, permits waiver of the comment period when there is good cause for an exception under 5 U.S.C. 553(b)(B). In addition, the requirement under section 553(d) of the APA for a 30-day delay in the effective date of a rule can be waived for good cause. Consistent with the Assistant to the President and Chief of Staff's memorandum of January 20, 2017, we are postponing for 60 days from the date of the memorandum, the effective date of the final rule to allow Department officials the opportunity for further review and consideration of new regulations. Moreover, we are exercising no discretion in implementing this specific provision of the memorandum. As a result, undertaking notice and comment procedure for this delay is unnecessary and contrary to the public interest, and we find good cause to waive the notice and comment requirements. For these same reasons, we find good cause to waive the 30-day delay in effective date provided for in 5 U.S.C. 553(d). Based on these

findings, this rule is effective immediately upon publication in the **Federal Register**.

CMS-5519-F2

Dated: February 10, 2017

Patrick H. Conway,
Acting Administrator,
Centers for Medicare & Medicaid Services.

Approved: February 15, 2017

Thomas E. Price,
Secretary,
Department of Health and Human Services.

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